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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,969	11/28/2001	Charles Raymond Burr JR.	70804	9221

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EXAMINER

D AGOSTA, STEPHEN M

ART UNIT

PAPER NUMBER

2683

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,969

Applicant(s)

BURR ET AL.

Examiner

Stephen M. D'Agosta

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1,9,11 and 17 is/are rejected.
7) ☒ Claim(s) 2-8, 10, 12-16 and 18-21 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments filed 12-3-04 have been fully considered but they are not persuasive.

1. The applicant's amendment to figure 1 overcomes the examiner's objection.
2. The applicant argues that Corts does not teaches the independent claims:

“...A multipurpose Internet appliance (or black box as shown in the Figures), which resides within each individual radio station to perform a multitude of actions necessary for a successful datacast. The primary function of the black box to prepare datacast elements in a manner that constitutes a datacast and then interface with an IBOC encoding device to dispense that datacast (see Para 0096)...”

While the statement above does reside in Corts, the examiner cited other paragraphs which do disclose the independent claim teachings regarding a master control station controlling the “mobile units” – see Office Action rejection which points to the abstract, figures 3-4, pg. 3, Para. 0035 which discloses a “central point”. Corts teaches a broadcasting (eg. radio) system whereby a “master controller” can insert data into the broadcast stream.

3. The original rejection is provided for informational purposes only.
4. Objected material has been pointed out.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 9 and 17 rejected under 35 U.S.C. 102(e) as being anticipated by
Corts et al. US 2002/0141491 (hereafter Corts).

As per **claim 1**, Corts teaches a method of controlling the operation of a plurality of transceiver stations from a master site (abstract and figures 3-4 show/depict a radio broadcast system that has a central control authority and pg. 3 #0035 which discloses a “central point”, also pg. 9, #0133 teaches the radio station developing procedures for aggregating and managing it themselves, where “it” means the combined regular programs plus other content such as weather, news, traffic, etc.) comprising:

a. transmitting, from said master site to said transceiver stations, a general application information signal that is retransmitted by each of said transceiver stations (abstract teaches a radio broadcast system as does figure 3 which shows broadcast tower(s) and a person receiving data in their car, pg. 9, #0133-0134 teaches inserting various data/snippets into the station's broadcast);

b. storing, in a respective transceiver, a sequence of commands, which when invoked, cause said respective transceiver station to perform a respective sequence of actions, including the transmission of one or more additional specific application information signals as received from said master site and retransmitted by said respective transceiver station, and wherein the respective sequence of actions of one transceiver station is not necessarily the same as, and can be expected to be different from the respective sequence of actions of another transceiver station of said plurality of

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transceiver stations (figure 3 shows actual software commands/instructions that would be stored in memory and invoked while the abstract teaches supplemental data , ie. news, weather, traffic, being inserted into the radio stream and would be uniquely configured by each radio broadcast station, figure 13M shows query for news data that would be inserted into the broadcast stream and figure 14a shows a high-level depiction of multiple types of data being inserted into a stream, #1433-#1435);

c. transmitting, from said master site to each of said transceiver stations, a prescribed command signal (figure 3 shows software code that can be pre-loaded and/or uploaded by a master station to each transceiver/radio tower); and

d. at said each of said transceiver stations, receiving said prescribed command signal transmitted from said master site in step c, and in response thereto, invoking the respective sequence of commands stored in step b, and thereby causing each respective transceiver station to perform a respective sequence of actions associated with the respective sequence of commands stored thereby (pg. 9, #0133-#0134 teaches the station developing procedures for aggregating and managing the combined data which would require hardware/software to automate the process as disclosed in figure 3 and page 10, #0142 teaches editing and placing audio advertisements in the broadcast stream while page 11, #0150 to pg. 13 #0161 gives an overview of the operation of acquiring content, storing it and inserting it into the data stream for reception by listeners).

As per **claim 8**, Corts teaches a store and forward communication system (figure 1 shows overview whereby the Imulse Radio rCommerce site manages all customer and vendor data in a stored-forward arrangement and figure 4 shows a data repository which is interpreted as being a store and forward system) comprising;

A master site transmitter which is operative to transmit a general application information signal to a plurality of transceiver stations, said plurality of transceiver stations being operative to receive and retransmit said general application information signal, and wherein said master site is further operative to controllably transmit a prescribed command signal to each of said transceiver stations (figure 2 shows a radio

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tower that is connected to a central site that controls it, eg. a NOC, figure 3 shows commands that can be uploaded to each site, (abstract teaches a radio broadcast system, pg. 9, #0133-0134 teaches inserting various data/snippets into the station's broadcast);

A respective transceiver stations containing a storage unit storing a sequence of commands which, when executed, cause said respective transceiver station to perform a respective sequence of actions, including the transmission of one or more additional specific application information signals, other than said general application information signal as received from said master site transmitter and retransmitted by said respective transceiver station, and wherein a respective sequence of actions of one transceiver station is not necessarily the same as, and can be expected to be different than, the respective sequence of actions of another transceiver station of said plurality of transceiver stations (figure 3 shows actual software commands/instructions that would be stored in memory and invoked while the abstract teaches supplemental data , ie. news, weather, traffic, being inserted into the radio stream and would be uniquely configured by each radio broadcast station, figure 13M shows query for news data that would be inserted into the broadcast stream and figure 14a shows a high-level depiction of multiple types of data being inserted into a stream, #1433-#1435); and wherein

Each of said transceiver stations includes a command signal processor which is operative to access and execute a sequence of commands stored in said storage unit, in response to receipt of said prescribed command signal, and thereby cause said each respective transceiver stations to perform a respective potentially locally unique sequence of actions associated with the accessed sequence of commands (pg. 9, #0133-#0134 teaches the station developing procedures for aggregating and managing the combined data which would require hardware/software to automate the process as disclosed in figure 3 and page 10, #0142 teaches editing and placing audio advertisements in the broadcast stream while page 11, #0150 to pg. 13 #0161 gives an overview of the operation of acquiring content, storing it and inserting it into the data stream for reception by listeners).

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As per **claim 17**, Corts teaches a store and forward receiver for use with a respective rebroadcasting station of a multistation network having a master site transmitter which transmits a general application information signal to a plurality of rebroadcasting stations, said respective rebroadcasting station being operative to receive and retransmit said general application information signal (figure 1 shows overview whereby the Imulse Radio rCommerce site manages all customer and vendor data in a stored-forward arrangement and figure 4 shows a data repository which is interpreted as being a store and forward system), said store and forward receiver comprising:

A demodulator which is operative to demodulate a signal transmitted to said plurality of rebroadcast stations from said master site transmitter containing said general application information signal and a control channel (abstract teaches a radio system which inherently requires a modulator/demodulator, and figure 3 shows a broadcast tower(s) and a person receiving/demodulating data in their car, pg. 9, #0133-0134 teaches inserting various data/snippets into the station's broadcast);;

A rebroadcast signal transport path coupled to said demodulator and being operative to coupled said general application information signal to rebroadcasting equipment of said respective rebroadcasting station for rebroadcast thereby (figure 2 shows broadcast tower connected to a communications path that sends data to the tower for it to broadcast and figure 4 shows servers that store and communicate data to radio towers); and

A command signal processor coupled to said demodulator and said rebroadcast signal transport path, and which is operative in response to receipt of a prescribed command in said control channel of said signal transmitted from said master site transmitter to said plurality of rebroadcasting stations (the system shown uses computers, eg. command signal processors, to run the software loaded in each computer and would be located at each radio tower/station, figure 1 shows a radio tower - top left of page – that has an IP Application running on a DAB server that combines IR data with Digital Audio Signal), to access a sequence of commands stored in a storage unit therefor and to cause execution of respective actions associated with

said sequence of commands (see figure 3), including playback through said rebroadcast signal transport path of one or more auxiliary information files stored in said storage unit, interleaved with portions of said general application information signal being rebroadcast by said respective transceiver (pg. 9, #0133-#0134 teaches the station developing procedures for aggregating and managing the combined data which would require hardware/software to automate the process as disclosed in figure 3 and page 10, #0142 teaches editing and placing audio advertisements in the broadcast stream while page 11, #0150 to pg. 13 #0161 gives an overview of the operation of acquiring content, storing it and inserting it into the data stream for reception by listeners)..

Allowable Subject Matter

Claims 2-8, 10-16 and 18-21 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

These claims, if added to their independent claim, would recite highly specific designs that, in the examiner's opinion, do not read on the prior art cited.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. D'Agosta whose telephone number is 703-306-5426. The examiner can normally be reached on M-F, 8am to 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bill Trost can be reached on 703-308-5318. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Stephen D'Agosta
PRIMARY EXAMINER
3-7-05

A handwritten signature in black ink, appearing to be 'SD' or similar, located below the typed name of the examiner.